

DOCKET NO: 289684US40PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
NAOHISA HIGASHIYAMA : EXAMINER: CIRIC, LJILJANA V
SERIAL NO: 10/577,330 :
FILED: APRIL 28, 2006 : GROUP ART UNIT: 3744
FOR: HEAT EXCHANGER :

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Election of Species Requirement stated in the Official Action dated August 27, 2009, Applicant provisionally elects the fourth species, Embodiment of Figures 10 through 16, and identifies Claims 21-31 as readable on the elected species.

Applicant respectfully traverses the outstanding election requirement for the following reason.

MPEP §803 states the following:

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though it includes claims to independent or distinct inventions.


In the present application, Claims 1-18, 20-29 and 32-39 are directed to heat exchangers, Claims 19, 30 and 40 are directed to refrigeration cycles including a heat exchanger and Claims 20, 31 and 41 are directed to vehicles having a refrigeration cycle including a heat exchanger. Thus, it appears that these claims according to the present invention are part of an

overlapping search area and that a search for Claims 21-31 would necessarily include a search directed to the rest of the claims as well. It is therefore believed that there is no undue burden on the Examiner to search all the claims under MPEP §803, and Applicant respectfully traverses the Election of Species Requirement on the grounds that a search and examination of the all the claims would not place a *serious* burden on the Examiner.

Accordingly, it is respectfully requested that the requirement to elect a single disclosed "species" be withdrawn, and that a full examination on the merits of Claims 1-41 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.


Akihiro Yamazaki
Attorney of Record
Registration No. 46,155

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 07/09)